

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-against-

18 CR 123 (S-1) (CBA)

DECLARATION

SCOTT BRETTSCSCHNEIDER, et al.,

*Defendants.*

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STATE OF NEW YORK        )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

SARITA KEDIA, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury:

1. I am an attorney duly admitted to practice in the State of New York and before this Court with offices located at 5 East 22<sup>nd</sup> Street, Suite 7B, New York, New York 10010.

2. I am the attorney for the defendant Scott Brettschneider in the above-captioned matter, and as such I am fully familiar with the facts and circumstances of this case.

3. As set forth in the accompanying memorandum of law, between October 2014 and March 2015, Mr. Brettschneider was intercepted through electronic surveillance conducted by the Queens County District Attorney's Office. In light of the

unlawful nature of the interception, Mr. Brettschneider moves to suppress the use of all oral and electronic communications obtained during the surveillance period as well as any evidence derived therefrom.

4. I have requested additional information and materials from the government relating to the wiretap, including any additional recordings that may exist that have not yet been produced as well as the pen registers and telephone and cell site records referenced in the wiretap applications. The government has informed that it is awaiting receipt of these materials and/or information from the Queens County District Attorney's Office. To the extent that this information or these documents impact the legality of the wiretap, we will notify the Court and supplement the motion accordingly.

5. Mr. Brettschneider also moves to sever his case from that of defendant John Scarpa Jr. because they are improperly joined under Rule 8 of the Federal Rules of Criminal Procedure. Additionally, Mr. Brettschneider moves for severance pursuant to Rule 14 of the Federal Rules of Criminal Procedure as he would be unduly prejudiced if jointly tried with Mr. Scarpa. I have been informed by Assistant United States Attorney Lindsay Gerdes, who is handling this case on the government's behalf, that the government consents to severance of these defendants. At the October 2, 2018, conference, this Court also indicated its view that a severance would be appropriate in light of the distinct charges against defendants Brettschneider and Scarpa. In light of the government's consent, I make this motion without detailing in the accompany memorandum the reasons that such a severance is necessary.

6. The exhibits annexed to this affidavit and referenced in the accompanying memorandum of law are as follows:

Ex. A: Eavesdropping warrant dated 10/15/14

Ex. B: Eavesdropping warrant dated 11/10/14

WHEREFORE, I respectfully request that the Court grant the relief sought in Mr. Brettschneider's accompanying notice of motion.

Dated: New York, New York  
November 16, 2018

/s/

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Sarita Kedia